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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,184	04/03/2006	Masanobu Sato	033622-015	8134
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EXAMINER				
AHMED, SHEEBA				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
07/25/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/544,184

Applicant(s)

SATO ET AL.

Examiner

SHEEBA AHMED

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendments

1. The amendments submitted on April 1, 2008 has been entered in the above-identified application. Claim 1 has been amended. Claim 4 has been cancelled.

Claims 1-3 and 5-14 are now pending.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 5-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Loon (US 6,503,637).

Van loon discloses a film comprising a blend of: i) a homopolymer of ethylene or a copolymer of ethylene and up to 50% weight % of a C₃ to C₂₀ olefin; ii) a homopolymer of propylene or a copolymer of propylene and up to 50 weight % of a comonomer selected from the group consisting of ethylene and C₄ to C₂₀ alpha-olefins; and iii) a polymer produced in a high pressure process using a free radical initiator. In a preferred embodiment, (i) a homopolymer of ethylene or a copolymer of ethylene and up to 50 weight %, one or more C₃₋₂₀ olefins has a density of 0.86 g/cm³ to 0.96 g/cm³. In a preferred embodiment the High Pressure Polymer is low density polyethylene having a density 0.910 to less than 0.940 g/cm³. In a preferred embodiment the polyethylene (component (i)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in the blend, the polypropylene (component (iii)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in

the blend, and the High Pressure Polymer (component (iii)) is present in the blend at from 1 to 50 weight %, based upon the weight of the polymers in the blend. The polymers can be mixed together prior to being put into an extruder or may be mixed or compounded in an extruder. The blend is typically formed into monolayer or multilayer films. These films may be formed by any of the conventional and in a preferred embodiment a film of the blend is used as a sealing layer. In another embodiment the blend layer is combined with one or more other layers. The other layer(s) may be any layer typically included in multilayer film structures. Further any of the above layers may be oriented before or after being combined with the blend layers. Additives such as antiblock, antioxidants, pigments, fillers, processing aids, UV stabilizers, neutralizers, lubricants, surfactants and/or nucleating agents may also be present in one or more than one layer in the films. Preferred additives include silicon dioxide, titanium dioxide, polydimethylsiloxane, talc, dyes, wax, calcium stearate, carbon black, low molecular weight resins, tackifiers, and glass beads. All limitations of claims 1-3 and 5-14 are disclosed in the above reference.

Response to Arguments

3. Applicant's arguments filed on April 1, 2008 have been fully considered but they are not persuasive. Applicants traverse the rejection of claims 1-3 and 5-14 under 35 U.S.C. 102(b) as being anticipated by Van Loon (US 6,503,637) and submit that Van Loon relates to films made of a blend of certain components, but is not directed towards achieving improved peelability and instead actually seeks to obtain

moisture impermeability and good sealability. However, the Examiner would like to point out that the “discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art’s functioning, does not render the old composition patentably new to the discoverer.” *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999).

Applicants further argue that the high pressure polymer disclosed by Van Loon is not a linear low density polyethylene having a density of 895 to 925 kg/cm³ prepared by using a catalyst containing a metallocene compound of a transition metal and is clearly not a high density polyethylene having a density of greater than 940 kg/m³ and up to 970 kg/m³ and hence fails to meet the claim limitations as now added by amendment. However, the Examiner disagrees. Column 8, lines 42-50 of Van Loon states that high pressure polymer maybe a low density polyethylene having a density of about 0.922 g/cm³ (commercially available under the trade name ESCORENE LD 150 BW) or ESCORENE LLN 1201 which is an ethylene butene copolymer having a density of 0.925 g/cm³ and produced in a gas phase using a Ziegler Natta catalyst. Hence, the limitation of the now amended claim 1 have been met and the rejection is maintained.

Conclusion

4. Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

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MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEEBA AHMED whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheeba Ahmed/
Primary Examiner, Art Unit 1794